

UNITED STATES BANKRUPTCY COURT

FOR THE

EASTERN DISTRICT OF VIRGINIA

Alexandria Division

In re: Dynamic Sports Performance, LLC:

Debtor

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Case No. 20-12322-KHK  
Chapter 11

**SUPPLEMENTAL OPPOSITION TO MOTION TO DISMISS**

Debtor, through undersigned counsel, responds to the Motion to Dismiss filed herein by the Office of the United States Trustee, as follows:

*The characterization of this case as a two-party dispute is inaccurate. This Bankruptcy case was not filed to stay litigation in the Alexandria General District Court. There is already an existing default judgment in place and the litigation in the State Court is concluded. The bankruptcy case was filed following a levy on the bank account of the Debtor that froze all of the operating funds and client deposits of the Debtor. The Debtor must unfreeze its' operating funds so that it can reorganize and pay creditors. This is the very purpose of bankruptcy, especially Chapter 11, Subchapter V, which is designed to help the small business debtor.*

1. Debtor filed this Chapter 11, Subchapter V case on October 21, 2020.

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VSB #37161

2. The bankruptcy petition was filed following a bank levy issued upon the company bank account by the Debtors' former landlord that froze all of the operating funds and client deposits held by the Debtor.

3. Dynamic Sports Performance, LLC is a company that provides personal physical training services, both in person and online.

4. The Debtor needs to be in bankruptcy so that it reorganize its Obligations, pay any debts over time and continue operations.

5. On November 8, 2020 the Office of the United States filed a Motion to Dismiss.

6. The Debtor will be filing prior to December 15<sup>th</sup> a Chapter 11 plan that will propose to pay all creditors in full.

### **ARGUMENT**

This bankruptcy case was filed to salvage a small business that has been operating successfully since 2012. Dynamic Sports Performance, LLC is a single member LLC that is in the business of personal training. Until the spring of 2020, the business had provided personal training from a physical facility as well as offering inline training. The social distancing requirements and restrictions imposed on businesses due to COVID-19, resulted in the loss of the Debtors' physical training facility in Alexandria, Virginia, which the Debtor vacated in April 2020. Clients could no longer train together, in close quarters, in a physical training facility.

**The Debtor had adapted and has currently expanded its' personal training online and has attempted to change its' operating model by providing special outdoor training events that can be held at various outdoor locations selected by the Debtor. The most recent special event was held outdoors in November in Puerto Rico.**

**The Debtors' former landlord, Old Town #1, LLC, after the Debtor left its' physical training location, obtained a judgment against the Debtor in the approximate amount of \$20,139.00. In mid-October the judgment creditor levied upon the bank account of the Debtor freezing all operating funds and client deposits.**

**The purpose of this bankruptcy filing is straightforward. The operating funds and client deposits needed to be freed up so that the business can continue to operate. The statutory objective of rescuscitating a financially troubled Debtor is exactly what is happening in this instance.**

**The "good faith" standard is fact-specific. In this case, without the protections provided by bankruptcy, this Debtor would be forced to cease operations. The idea that the Debtor was engaged in litigation in the state court at the time of filing is simply inaccurate. The idea that this is a two-party state court dispute that was brought to the United States Bankruptcy Court for resolution is also inaccurate.**

**This case involves a successful business that has operated for 8 years in the field of personal training. Like thousands of small businesses, Dynamic**

Sports Performance, LLC has been hit tremendously hard by the restrictions imposed upon society due to the COVID-19 pandemic. When all of the operating funds and client deposits of the Debtor are levied upon, the Debtor must act to preserve the business and reorganize. This is the very purpose of bankruptcy.

WHEREFORE, the Debtor respectfully requests that the Court Deny the Motion to Dismiss filed by the Office of the United States Trustee.

Respectfully Submitted  
Dynamic Sports Performance, LLC  
By Counsel:

/s/ Nathan Fisher  
Nathan Fisher  
Fisher-Sandler, LLC  
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VSB #37161

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 12th day of December 2020, I served the foregoing, via first-class mail, on the following, who are all necessary parties under Local Rule 4001(a)-1(E)(1):

Jack Frankel, Esq.  
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**Darius Gilbert, Debtor Designee**  
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**s/s Nathan Fisher**  
**Nathan Fisher**